

Rule 34. Communication or Contact Agreement**34.01 Persons Who May Enter Into a Communication or Contact Agreement**

Subdivision 1. Parties to Agreement for Child under Guardianship of the Commissioner of Human Services. A communication or contact agreement for children under the guardianship of the Commissioner of Human Services under Minnesota Statutes, section 260C.619, shall be in writing and may be entered into between the following persons:

- (a) an adopting parent and a birth parent;
- (b) an adopting parent and any relative, including a sibling, or foster parent with whom the child resided before being adopted; or
- (c) an adopting parent and any adult sibling of the child or the parent or legal custodian of a sibling of the child, if the child is a minor.

Subd. 2. Parties to Agreement for a Child Not under Guardianship of the Commissioner of Human Services. If the child is not under the guardianship of the commissioner, the adoptive parents and a birth relative or foster parents may enter into an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative or foster parents pursuant to Minnesota Statutes, sections 259.58 and 260C.619. An agreement may be entered between:

- (a) adoptive parents and a birth parent;
- (b) adoptive parents and any other birth relative or foster parents with whom the child resided before being adopted; or
- (c) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

Subd. 3. Approval. The court shall not issue a communication or contact order unless the agreement has been approved as follows:

- (a) The responsible social services agency, the prospective adoptive parents or adoptive parents, and any birth parent, birth relative, foster parent, adult sibling, or legal custodian of the child's siblings who desire to be a party to the agreement shall approve, in writing, any agreement involving a child under the guardianship of the commissioner of human services.
- (b) A child-placing agency shall approve, in writing, any agreement involving a child under its legal custody or guardianship.
- (c) A biological parent shall approve in writing an agreement between an adopting parent and any other birth relative or foster parent, unless an action has been filed against the biological parent by a county under Minnesota Statutes, chapter 260C.

An agreement under this subdivision need not disclose the identity of the parties to be legally enforceable, and when the identity of the parties to the agreement is not disclosed, data about the identities in the adoption file shall remain confidential.

(Amended effective July 1, 2014.)

2004 Advisory Committee Comment

For siblings who grow up in foster care under the guardianship of the Commissioner of Human Services, a communication or contact agreement may be one way to ensure the children are able to maintain their sibling relationship.

34.02 Filing of Agreement

The signed communication or contact agreement shall be filed with the court after the petition has been filed and prior to finalization of the adoption.

34.03 Written Order Required

A communication or contact agreement is not legally enforceable unless the terms of the agreement are contained in a written court order entered pursuant to these rules, which shall be separate from the findings of fact, conclusions of law, order for judgment, and adoption decree issued pursuant to Rule 45. The order shall be filed in the adoption file and shall be issued before or at the time of the granting of the decree of adoption. For children under guardianship of the Commissioner of Human Services, when there is a written communication or contact agreement between prospective adoptive parents and birth relatives other than birth parents it must be included in the final adoption decree unless all the parties to the communication or contact agreement agree to omit it. If the adoptive parents or birth relatives do not comply with the communication or contact agreement, the court shall determine the terms of the communication and contact agreement.

(Amended effective January 1, 2007; amended effective July 1, 2014.)

34.04 Timing

A communication or contact agreement order shall be issued by the court within thirty (30) days of being submitted to the court or by the date the adoption decree is issued, whichever is earlier.

(Amended effective August 1, 2009; amended effective July 1, 2014.)

34.05 Requirements for Entry of Order

A communication or contact agreement order under this rule need not disclose the identity of the parties. The court shall not enter an order unless the court finds that the communication or contact between the child, the adoptive parent, and a birth relative as agreed upon and contained in the proposed order is in the child's best interests.

34.06 Service of Order

The court administrator shall serve a certified copy of the communication or contact agreement order upon the parties to the agreement or their legal representatives by U.S. mail at the addresses provided by the parties to the agreement.

(Amended effective July 1, 2014; amended effective July 1, 2015.)

34.07 Enforcement

Subdivision 1. Filing Requirement. A communication or contact agreement order entered under this rule may be enforced by filing with the family court, or, for children under the guardianship of the Commissioner of Human Services, with the juvenile court pursuant to subdivision 3:

- (a) a petition or motion;
- (b) a certified copy of the communication or contact agreement order; and

(c) an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification.

Subd. 2. Attorney's Fees. The prevailing party upon a motion to enforce a communication or contact agreement order may be awarded reasonable attorney's fees and costs.

Subd. 3. Child Under Guardianship of Commissioner of Human Services. An order regarding a communication or contact agreement entered pursuant to this rule and Minnesota Statutes, section 260C.619, for a child under the guardianship of the Commissioner of Human Services shall be enforced by filing a motion in the existing adoption file with the court that entered the contact agreement. Any party to the communication or contact order or the child who is the subject of the order has standing to file the motion to enforce the order.

(Amended effective July 1, 2014.)

34.08 Failure to Comply with Order

Failure to comply with the terms of a communication or contact agreement order is not grounds for:

- (a) setting aside an adoption decree; or
- (b) revocation of a written consent to an adoption after that consent has become irrevocable.

34.09 Modification

The court shall not modify a communication or contact agreement order unless it finds that the modification is necessary to serve the best interests of the child, and:

- (a) the modification is agreed to by the parties to the agreement; or
- (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.